

Natural Environment Referral Response - Coastal

Application Number:	DA2022/0777
Date:	25/07/2022
Responsible Officer	Megan Surtees
Land to be developed (Address):	Lot 1 DP 344054 , 4 Cabarita Road AVALON BEACH NSW 2107 Lot LIC 190391 , 4 Cabarita Road AVALON BEACH NSW 2107

Reasons for referral

This application seeks consent for land located within the Coastal Zone.

And as such, Council's Natural Environment Unit officers are required to consider the likely impacts on drainage regimes.

Officer comments

The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Resilience & Hazards) 2021 and has also been assessed against requirements of the Pittwater LEP 2014 and Pittwater 21 DCP.

The application has been assessed in consideration approval/support of:

- Consent to lodge DA from the Department of Crown Lands under the NSW Planning, Industries & Environment dated 10 March 2022
- No Objection from the DPI-Fisheries under the Department of Primary Industries dated 19 November 2019 and updated 28 March 2022

Coastal Management Act 2016

The subject site has been identified as being within the coastal zone and therefore *Coastal Management Act 2016* is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the *Coastal Management Act 2016*.

Further, the applicant has proposed construction/modification of the existing seawall. Hence the proposed development has been assessed also against the requirements of the Section 27 of the *Coastal Management Act 2016*. As required, the impact & risk associated with the construction/modification of the seawall has been assessed in an Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019.

Based on the impact and risk identified, Council applies maintenance condition as per Section 27(b)(ii) in approving this DA

State Environmental Planning Policy (Resilience & Hazards) 2021

The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated April 2022 and an Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019, the DA satisfies requirements under clauses 2.10, 2.11 and 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.

Pittwater LEP 2014 and Pittwater 21 DCP**Estuarine Hazard Management**

The subject property has also been identified as affected by estuarine wave action and tidal inundation on Council's Estuarine Hazard Mapping. However, development works proposed are located on both the landward and seaward side of the foreshore edge on crown lands, below the Mean High Water Mark (MHW). As such, the Estuarine Risk Management Policy for Development in Pittwater (Appendix 7, Pittwater 21 DCP) and the relevant B3.7-B3.10 Estuarine Hazard Controls will also apply to any proposed development of the site. The Estuarine Hazard Controls do not apply to Jetties, Bridging Ramps or Pontoons located on the seaward side of the foreshore edge.

The applicant has submitted an Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019. As per the report, an estuarine planning level (EPL) of RL 2.5m AHD for the seawall and RL 2.2m AHD for the boatshed would apply at the subject site.

On internal assessment and as assessed in the submitted Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019, the ground floor level for the proposed additions and alterations is below the derived EPL for the site.

The proposed development is therefore subject to conditions to satisfy the relevant estuarine risk management requirements of P21 DCP.

Development on Foreshore Area

A large section of the subject property is within the foreshore building line. Part 7, Clause 7.8 –Limited development on foreshore area of the Pittwater LEP 2014 applies for any development within the foreshore area.

The DA proposes a number of works located in foreshores area. These proposed works are consistent with Clause 7.8(2).

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated April 2022, the DA satisfies the objectives and requirements of Part 7, Clause 7.8 of the Pittwater LEP 2014.

Development seaward of mean high water mark

Proposed development works are located on crown land below the Mean High Water Mark. Hence, Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP applies to proposed development.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated April 2022, the DA satisfies requirements under the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP. An analysis of the proposal demonstrated that the proposed development will not adversely impact on the visual amenity of the foreshore or water quality or estuarine habitat of the Pittwater waterway.

The Applicant has also submitted a Marine Habitat Survey prepared by Bio-Analysis Pty. Ltd. dated 19 April 2019 and updated 28 March 2022, The report concludes that the proposed development will have a very limited temporary impact on the aquatic environment if caution is taken to avoid degradation of the seagrasses within close proximity to the proposal and to avoid further dispersion of the noxious algae *Caulerpa taxifolia*

As such, it is considered that the application, subject to condition, does comply with the requirements of the Section D15.12: Development seaward of mean high water mark of the Pittwater 21 DCP.

Waterfront Development

Existing boatshed is located on crown land below the Mean High Water Mark. Hence, Section D15.15: Waterfront development, sub-section c) Boatshed of the Pittwater 21 DCP applies to proposed development.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated April 2022, the DA satisfies requirements under the Section D15.15: Waterfront development, sub-section c) Boatshed of the Pittwater 21 DCP. As such, it is considered that the application does comply with the requirements of the Pittwater 21 DCP

Seawall

Proposed upgrading of existing seawall is located on crown land below the Mean High Water Mark. Hence, Section D15.18: Seawall of the Pittwater 21 DCP applies to proposed development.

Comment:

On internal assessment and as assessed in the submitted Statement of Environmental Effects (SEE) report prepared by Symons Goodyer Pty. Ltd. dated April 2022, the DA satisfies requirements under the Section D15.18: Seawall of the Pittwater 21 DCP. As such, it is considered that the application does comply with the requirements of the Pittwater 21 DCP

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Natural Environment Conditions:

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Estuarine Hazard Design Requirements

The following applies to all development:

All development or activities must be designed and constructed such that they will not increase the level of risk from estuarine processes for any people, assets or infrastructure in surrounding properties; they will not adversely affect estuarine processes; they will not be adversely affected by estuarine processes.

To ensure Council's recommended flood evacuation strategy of 'shelter-in-place', it will need to be demonstrated that there is safe pedestrian access to a 'safe haven' above the Estuarine Planning Level.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

Estuarine Planning Level Requirements

An Estuarine Planning Level (EPL) of 2.2m AHD has been estimated for boatshed through an Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019 and accepted by Council for the boatshed and shall be applied to all development proposed below this level as follows:

- All structural elements below 2.2m AHD shall be of flood compatible materials;
- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 2.2m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 2.2m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 2.2m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 2.2m AHD to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019 and these recommendations are to be incorporated into construction plans.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

Structural Engineering for Estuarine Risk

Structural engineering design for the development shall be prepared, with input as necessary from a chartered professional engineer with coastal engineering as a core competency, to ensure that for its design life (taken to be 60 years for seawall and 25 years for boatshed as justified and accepted by Council) the development is able to withstand the wave impact forces and loadings identified in the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019.

Note: The potential for component fatigue (wear and tear) should be recognised for the less severe, but more frequent, wave impact loadings.

Reason: To ensure structural engineering is prepared by an appropriately qualified professional

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

Conservation of aquatic environment

The development is to comply during works with all recommendations of the approved Marine Habitat Survey Report prepared by Bio-Analysis Pty. Ltd. dated 19 April 2019 and updated on 28 March 2022 these recommendations are to be incorporated into construction plans.

Reason: To prevent potential harm associated with development in an estuarine habitat.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

Maintenance of the Coastal Protection Works

The owner(s) of 4 Cabarita Road Avalon Beach NSW 2107 (Lot 1 DP 344054) are responsible for the ongoing maintenance of the approved seawall in accordance with the approved plans and specifications following any damage caused by coastal hazard or storm. This includes undertaking works required to remove any threat to public safety arising from damage to the seawall such as the removal of rocks or debris, that have become dislodged from the works.

Reason: To ensure compliance with section 27 of the Coastal Management Act 2016

Compliance with Estuarine Risk Management Report

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 14 August 2019 and these recommendations are to be maintained over the life of the development.

Reason: To ensure preservation of the development and the estuarine environment